

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

LIANG WANG,

Plaintiff,

v.

**SAMMY SUSSMAN; VOX MEDIA, LLC;
NEW YORK MEDIA, LLC,**

Defendants.

Civil Action No. 1:24-cv-03987-AS

**DECLARATION OF KATHERINE M. BOLGER IN SUPPORT OF DEFENDANTS'
MOTION FOR ATTORNEYS' FEES AND COSTS**

I, Katherine M. Bolger, declare as follows:

1. I am a partner at Davis Wright Tremaine LLP, counsel to Defendants Sammy Sussman, Vox Media, LLC, and New York Media, LLC (the “Defendants”). I am lead counsel in this matter and am fully familiar with the facts and circumstances of the case, and with the contents of this Declaration. I make this Declaration in support of Defendants’ motion for reasonable attorneys’ fees and costs under the New York anti-SLAPP statute, N.Y. Civil Rights Law § 70-a(1) (McKinney 2023).

2. Davis Wright Tremaine LLP (“DWT”) was retained by Defendants as lead outside counsel for this matter.

3. In this motion, Defendants seeks to recover attorneys’ fees and costs for services rendered by two attorneys at DWT—myself and one mid-level associate (Mary Goetz). Defendants also seeks to recover fees for services rendered by DWT’s paralegals, research librarian, and managing clerk.

4. As set forth in detail below, Defendants are requesting a total of \$185,702.50 in attorneys' fees, costs, and disbursements to defend this action. Defendants actually incurred a total of \$207,076.50 in fees and costs defending this action, but in this application seek only the fees associated with its researching and writing of the motion to dismiss.

DWT's Expertise and Billing Rates

5. DWT is an AmLaw 100 law firm, with approximately 600 lawyers in the United States. DWT is widely known for its top work in the fields of First Amendment, copyright, media, and entertainment law. The firm is annually recognized by Chambers USA, Best Lawyers in America, U.S. News & World Report and others for its First Amendment, media, and public records litigation practice; in fact, U.S. News and Best Lawyers recognized DWT as 2022 Law Firm of the Year in Media Law, and Law360 has named DWT as a national "Practice Group of the Year" in Media & Entertainment Law for the eight of the past nine years. DWT is based in Seattle, and has offices in Oregon, California, New York, Illinois, Virginia, and Washington, D.C. The firm represents numerous prominent media companies and publishers in libel disputes and other matters.

6. I served as lead counsel on this matter. I have over 24 years of media litigation experience. Since graduating from the University of Chicago Law School in 1998, I have practiced at several nationally recognized law firms, representing major news and entertainment companies in high-profile First Amendment and defamation cases, and counseled media clients about prepublication issues. I served as the past head of the Communications Law Committee for the Association of the Bar of the City of New York from 2017-2020 and have been an adjunct professor at Fordham Law school since 2015. I was recognized as one of Law360's 2019 Media & Entertainment MVPs. In 2019 and 2023, Best Lawyers selected me as New York City's "Lawyer of the Year" in Media Law; they have also recognized me as one of the preeminent Media lawyers

in New York since 2007. I have been ranked in Chambers USA since 2007 as a leading practitioner in Media Entertainment, including as one of “America’s Leading Lawyers for Business” in First Amendment Litigation (Nationwide) and in Media and Entertainment: First Amendment Litigation (New York). I have been ranked “Band 1” ranking for Media & Entertainment (New York) from 2019 to present. Thomson Reuters also recognized me as a “New York Super Lawyer” in Media & Advertising and Entertainment & Sports from 2014 to 2019. A true and correct copy of my firm biography is attached as **Exhibit A**.

7. My standard hourly rate was \$975 in 2024. My discounted hourly rate for this matter was \$535 hour in in 2024.

8. Mary Goetz is a mid-level media associate at DWT’s New York office. Ms. Goetz graduated *magna cum laude* from Harvard Law School in 2019. Ms. Goetz clerked for the Honorable James E Boasberg of the United States District Court for the District of Columbia from 2019-2020 and the Honorable Srikanth Srinivasan of the United States Court of Appeals for the District of Columbia Circuit from 2020-2021. Ms. Goetz began her career at Williams & Connolly in DC, and routinely represents media companies in First Amendment, intellectual property, and media litigation, including handling numerous complex and high-profile defamation litigations. Ms. Goetz is admitted to the bar of the District of Columbia and, having relocated to New York, her admission to the New York bar is pending. A true and correct copy of her firm biography is attached as **Exhibit B**. Her standard hourly rate was \$780 in 2024. Her discounted hourly rate for this matter was \$485 in 2024.

9. Different paralegals assisted with this matter although only one assisted on any given assignment. Megan Duffy is a paralegal with over 20 years of experience. Her standard hourly was \$405 in 2024. Her discounted hourly rates for this matter was \$165 in 2024. A true

and correct copy of her firm biography is attached as **Exhibit C**. Marni Shapiro is a paralegal with over 40 years of experience. Her standard hourly was \$545 in 2024 but she worked at the discounted rate of \$165. A true and correct copy of her firm biography is attached as **Exhibit D**. Stacey Shelton, a research librarian, and Daniel Garcia, a managing clerk, also helped with the brief.

10. Based on a review of the case law as cited in the accompanying Memorandum of Law, the discounted hourly rates charged by the DWT counsel and paralegals in this case are well within the range of, if not below, the median rates for attorneys with comparable tenures at peer firms in the New York City legal community. This is confirmed by annual surveys compiled independently by the Big Four accounting firms, which show that DWT's billing rates for partners and associates are generally well below the median rates in the New York City area for partners and associates of similar experience in large-sized firms. For example, the median billing rate for partners in large-sized firms with my years of experience was \$1,526 per hour in 2024. The survey data shows that, for the Class of 2019, the median billing rate was \$996 per hour in 2024. The rates described above are particularly reasonable in light of the DWT counsel's experience, skill, and reputation in First Amendment Litigation and defamation cases specifically.

The Number of Hours Worked Was Reasonable

11. DWT staffed this matter efficiently, with one partner and one associate. We were able to take advantage of our significant experience in litigating similar defamation actions when drafting the motion to dismiss.

12. Because of her lower billing rate, Ms. Goetz researched and drafted the key documents and filings in this matter. I undertook a supervisory role, editing the briefs, preparing for and arguing the motion to dismiss, and formulating the overall litigation strategy, thereby accruing fewer hours at my relatively higher rate.

13. In drafting the motion to dismiss, DWT first investigated the Plaintiff's claims and defenses. This activity was complicated by several factors, including the length of the article at issue and the podcast at issue. In addition, both the article and the podcast discussed two separate investigations and arbitrations related to Ms. Kizer's allegations against Mr. Muckey. DWT reviewed those lengthy materials to see if the information in those documents was consistent with the allegations about them in the Compliant, supportive of the reporting and/or helpful to its defenses. Defendants ultimately relied on those documents in making both a fair report privilege argument and the actual malice argument. After reviewing these voluminous materials, DWT then prepared a motion to dismiss with thorough supporting papers, prepared for oral argument, and briefed supplemental authority in support of the motion to dismiss.

14. These rates and the total hours associated with representing Defendants in connection with this litigation was particularly reasonable in light of the two causes of action and two publications at issue, as well as DWT's professionals' experience, skills, reputations, and the outcome that was achieved.

15. As a standard billing practice, DWT attorneys keep contemporaneous daily time diaries that are entered into the firm's billing system as computerized records ("pro forma statements"). These pro forma statements list the date the service was rendered, the lawyer code, the amount of time billed in one-tenth hour increments, the amount to be filled based on historic billing rates, a brief description of the service rendered, and other administrative information. The *pro forma* statements are used as the raw data from which final bills are generated. As the responsible attorney for Defendants, I reviewed all of the *pro forma* statements

16. As to costs, no costs were incurred in connection with the motion to dismiss.

17. I am attaching as **Exhibit E** the billing statements in this matter. A redacted version of Exhibit E has been filed on the public docket, while an unredacted version with redactions has been filed *ex parte* for the Court's review (with redactions only for items for which Defendants do not seek fees). In the public version, the descriptions of the services rendered, which include attorney client information and attorney work product, have been redacted, so as not to waive the privilege. Those redactions are marked "PRIVILEGED AS A/C COMM. AND/OR WORK PRODUCT."

18. Accordingly, Defendants respectfully request that the Court award them \$185,702.50 in attorney's fees.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: January 27, 2025

/s/ Katherine M. Bolger
Katherine M. Bolger